

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Michael C. Price,)	C/A No.: 1:13-cv-1064-JFA
)	
Plaintiff,)	
v.)	ORDER
)	
Carolyn W. Colvin,)	
Commissioner of Social Security,)	
)	
Defendant.)	
)	

This matter is before the court upon motion of the plaintiff's counsel, Robertson H. Wendt, Jr., for attorney fees (ECF No. 45) under the Social Security Act, 42 U.S.C. § 406(b). Counsel has submitted copies of the Notice of Award from the Commissioner and the signed Fee Agreement of the plaintiff. The Commissioner has responded to the motion indicating that although the Commissioner is not a party to § 406(b) fee awards and generally takes no position on such petitions, that she has no objection to the petition.

Plaintiff's counsel petitions the court for approval of a court-related fee in the amount \$26,245.75 pursuant to the terms of a written contingent-fee agreement with the plaintiff. That contingent-fee agreement provides, in pertinent part, for the payment of attorney fees in the amount of 25% of all past-due benefits recovered.

In the United States Supreme Court case of *Gisbrecht v. Barnhart*, 535 U.S. 780 (2002), the Court held that the provision of the Social Security Act limiting attorney fees to 25% of past-due benefits does not displace contingent-fee agreements that are within such

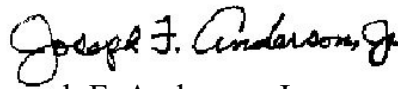
statutory ceiling, and instructs courts to review for reasonableness fees yielded by such agreements.

Upon review of the material submitted to the court, the undersigned finds that plaintiff counsel's request for attorney fees is reasonable.

Therefore, it is ordered that the Commissioner pay reasonable attorney fees totaling \$26,245.75 to be drawn out of the 25% amount withheld from the plaintiff's past-due benefits. As this court has already awarded attorney fees to Mr. Wendt under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d) in the amount of \$5,000.00, plaintiff's counsel must refund that amount (\$5,000) to the plaintiff. *See Gisbrecht* at 796.

IT IS SO ORDERED.

December 23, 2015
Columbia, South Carolina


Joseph F. Anderson, Jr.
United States District Judge